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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Case No. 2:17-cv-00461-RFB-PAC

HSBC BANK USA, NATIONAL
ASSOCIATION, AS TRUSTEE FOR
DEUTSCHE ALT-A SECURITIES INC.
MORTGAGE LOAN TRUST, MORTGAGE
PASS-THROUGH CERTIFICATES SERIES
2005-4,

Plaintiff,

v.

UNDERWOOD PARTNERS, LLC; NV
EAGLES, LLC; SPANISH STEPS
LAKESIDE HOMEOWNERS
ASSOCIATION; and HAMPTON &
HAMPTON COLLECTIONS, LLC,

Defendants.

ORDER

Before the Court is Plaintiff's Motion to Alter or Amend Judgment and for Reconsideration of Court's Order Dated March 25, 2019. ECF Nos. 69, 70.

Plaintiff filed its Complaint on February 13, 2017. ECF No. 1. In August 2018, Plaintiff and Defendant Spanish Steps Lakeside Homeowners Association ("Spanish Steps") each filed a motion for summary judgment. ECF Nos. 55, 56. On March 25, 2019, the Court denied Plaintiff's motion and granted Spanish Steps's motion in part, preserving only the issue of tender and Plaintiff's associated equitable claim. ECF No. 68.

Following Plaintiff's motion, the Court held a hearing on April 24, 2019. The Court now reconsiders the issue of tender pursuant to Plaintiff's motion. The Court incorporates by reference its findings of undisputed facts in its March 25, 2019 order.

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1 “[A] first deed of trust holder’s unconditional tender of the superpriority amount due
2 results in the buyer at foreclosure taking the property subject to the deed of trust.” Bank of Am.,
3 N.A. v. SFR Investments Pool 1, LLC, 427 P.3d 113, 116 (Nev. 2018) (en banc). The super-
4 priority component of an HOA lien consists of “the last nine months of unpaid HOA dues and
5 maintenance and nuisance-abatement charges,” while the sub-priority component consists of “all
6 other HOA fees and assessments.” SFR Investments Pool 1 v. U.S. Bank, 334 P.3d 408, 411 (Nev.
7 2014).

8 Based on the facts of record as clarified at the April 24, 2019 hearing, the Court reconsiders
9 its partial denial of summary judgment. The Court now finds that Plaintiff’s predecessor tendered
10 the super-priority amount and that therefore Plaintiff’s deed of trust remained an encumbrance on
11 the Property. It is undisputed that the payment was tendered prior to the HOA sale in the amount
12 of the previous nine months of unpaid HOA assessments. The tender did not need to capture the
13 remaining outstanding balance in order to cover the super-priority component of the lien.

14 **IT IS THEREFORE ORDERED** that Plaintiff’s Motion to Alter or Amend Judgment
15 and for Reconsideration of Court’s Order Dated March 25, 2019 (ECF Nos 69, 70) is GRANTED.
16 The Court reconsiders in part its March 25, 2019 order and now enters summary judgment in favor
17 of Plaintiff on the remaining issue of tender. The Court issues declaratory relief in favor of Plaintiff
18 and states that Plaintiff’s deed of trust remained an encumbrance on the Property at the time of the
19 foreclosure sale.

20 **IT IS FURTHER ORDERED** that the Clerk of Court is instructed to close this case.¹

21 DATED this 25th day of April, 2019.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

¹ To the extent any unjust enrichment claim remains, it is dismissed without prejudice in light of the Court’s issuance of declaratory relief in favor of Plaintiff.